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Given that there were rules of conduct expressed in the terms *cang*, 'right', and *dar*, 'wrong', which controlled the relations of one Nuer with another and of one group with another group, what were the sanctions which made for the observance of those rules? The primary sanction, and one which is most affected by the establishment of public security and ordered administration today, is the sanction of self-help; retaliation if a wrong is committed, or the use of force to claim a right. This applies to individuals, who fear that those they have wronged or those to whom definite obligations have not been fulfilled will take physical action against them, and fear also that, because their action is agreed to be wrong, they will receive no support from their fellows in resisting. Moreover the wronged may receive the assistance of their own kinsmen and neighbours, who will overwhelm any attempt at resistance. This applies to groups of individuals in relation to other groups in the same way, and is expressed in the balanced opposition of tribal segments and kinship groups. A Nuer may owe one of his kinsmen a cow and refuse to pay it. His kinsmen will take the cow by stealth or wrest it from him by force, and the success of this action will depend on the extent of the non-intervention of other relatives. In the relationship of individuals there is also the prevailing principle of collective responsibility, so that in fact there is rarely an isolated individual wrong or an isolated right. The strength of the right, or the extent of the wrong, is qualified by the relationship of the parties concerned. Further sanctions are social reprobation, unpopularity, loss of approval and respect of neighbours, and hence loss of the privileges which the individual possesses as a member of a community and which the community possesses as part of a larger social group. Such privileges are both social and political. They are also economic, because so many economic activities must be carried out collectively. For some wrongs there is also a religious sanction, but, as I shall attempt to show later, the religious sanction is often an expression of kinship ideals.

The force of all these sanctions is relative to the position in the social structure of the persons concerned. Clearly social obligations are likely to be more binding on persons not only related by blood but also closely associated in the activities of day to day life. Loss of privilege is a greater loss in such circumstances. Generally speaking, the closer the relationship, expressed in terms of kinship, in association by common residence, and economic co-operation, the greater the need to abide by accepted modes of behaviour. Not only is the need greater and therefore the likelihood of obedience greater too, but also the difficulty of composition, when there is a quarrel, is less, because the sanctions which ensure good relations with other persons within the group in other respects are more intense and therefore more effective. The reaction of indignation is not likely to run to such a pitch of ill-feeling.

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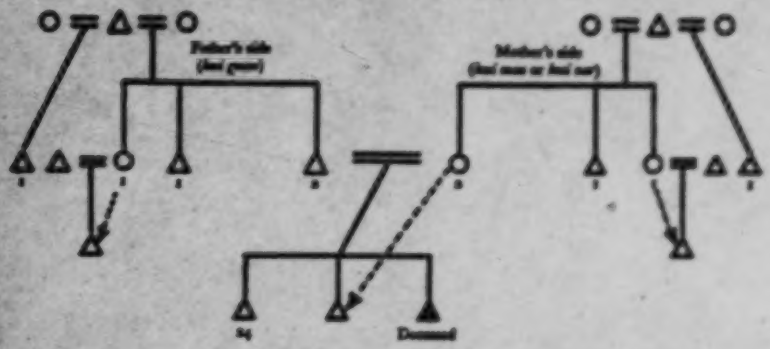
It will be noted that in all four lineages are involved, those of the father and mother of the dead man and those of his paternal and maternal aunts' husbands, since cattle given to them will be taken by their sons.



These examples are from Western Nuer where compensation for homicide has always been maintained at 40 head of cattle.[1] Among the Zeraf Nuer, after compensation had been reduced to 20 head, this distribution was not followed. Apart from initial payments, all the remainder went to the dead man's heir to marry him a wife. Since only 14 were left, it was usual to wait until the cattle had increased to the number required for normal bridewealth (not less than 18 to 20). Now that compensation has been increased once more to 40 head of cattle, the Zeraf tribes may well return to the old system of distribution.

Degree of Responsibility where Homicide is Committed Jointly

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In assessing the payment of compensation for a man killed by more than one assailant, Nuer do not take into consideration the severity of the wounds inflicted on his body, nor do they attempt to attach the cause of death to any particular wound. Once the fact of homicide is established, all persons involved are considered responsible, but it is the man who strikes the first blow, the *ran me hoic e-je*, who is considered to have a much greater degree of responsibility than those who follow him. This applies however superficial the wound he inflicts on the body of the deceased. Most cases of this sort occur in battle, and usually those who fight side by side are kinsmen. The *ran me hoic e-je* is therefore in many cases closely related to those who assisted him in the act of homicide, including the *ran me gaw e-je* ('second spearer'). The collection of cattle for compensation is not therefore an unusually complicated matter, and is subject to agreement within the

[1] It is worth noting that some Western Nuer tribes say that the Leopard-Skin Chief is entitled to 4 head of cattle in all for his services: two bulls, a cow and a cow-calf. Ask Nuer say that these beasts should be given over and above the total of 40, although this is not a normal Nuer custom (as it is among some Dinka tribes).

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682 kinship group. In some cases, however, the *ran me kuic e-je* is not
•672 closely related to those who acted with him, and the collection of compensation becomes more complicated. It seems that, according to usual custom, the kinsmen of the *ran me kuic e-je* are expected to pay the bull of the compensation, although there are no definite rules on this subject. Some Nuer suggest that the 'first spearer' should pay all the compensation.

Those rules have caused some confusion in the courts and the matter was standardized in 1945 at a meeting of the Nuer Council. It was then laid down that the *ran me kuic e-je* should pay three-quarters of the compensation and the *ran me gum e-je* one quarter, and, if there were more than one *ran me gum e-je*, this quarter should be divided equally between them.

3. FORMS OF HOMICIDE AND COMPENSATION RECOGNIZED IN NUER LAW

682 The various forms of *thung* or bloodwealth recognized in Nuer Law and graded according to the seriousness of the wrong perpetrated against the dead man's kin have already been defined. It is now necessary to examine these in greater detail.

Thung ran

Thung ran, which is the general term used to describe compensation for homicide, is also used more specifically in circumstances in which a man has been killed intentionally. In the past this was subject, as we have seen, to certain qualifications. The rate of compensation depended on the weapon used, a distinction which perhaps reflected the degree of intent with which the act was carried out.

Thung loic ran

A blood-feud means that a spiritual barrier is raised between the two groups concerned, and that a breach of certain observances and taboos current between them while a state of feud exists leads to contamination which is physically manifested in disease (*suuer*). It is therefore incumbent upon a man to confess when he has killed another. Failure to do so would be a serious breach of moral duty. Moreover, he must do so in order that both groups may not involuntarily contaminate themselves and so that they may scrupulously observe the rules of behaviour necessary in these circumstances. In the event of a man subsequently confessing to homicide or the fact of his guilt being established later, the *ji ran* demand a higher scale in compensation referred to as *thung loic ran*. Nuer feelings are outraged by behaviour of this sort,

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at all if he kills his own wife—a rare occurrence—for he would have to pay it to himself.[1]

Legal Responsibility for Act of Homicide committed by a Woman

[672] A man is responsible for his wife's actions if she is legally married to him, even if only part of the bridewealth has gone to her family. If she kills someone, it is he and not her family who will pay compensation. A woman who is recognized as *kaagh* (unmarried concubine) is in a different category, and a man is not responsible for her actions even while she is living as his concubine. Not he, but her family, will be called upon for compensation if she kills someone.[2]

5. PEACE CEREMONIES: COMPOSITION ON A TRIBAL SCALE

728 The laws of homicide described in the previous sections concern feuds (*tar*) which take place between the segments of a tribe. Tribal boundaries were not in the past so clearly defined as to preclude payment of compensation between sections of one tribe and sections of another, but a whole tribe would rarely unite to demand compensation for one of their number killed by a member of another tribe. When two tribes had been at war for a long time and there had been many casualties on both sides, both might decide to make peace; according to tradition there was a specific ceremony by which peaceful relations could be restored, and this again was performed by a Leopard-Skin Chief. After preliminary negotiations, usually initiated by some prominent leader in one tribe, representatives of both parties met at a chosen spot. A bull, always a hornless bull (*cut*), was sacrificed, and the Leopard-Skin Chief invoked the spear names and ancestral spirits of both sides, calling upon them to maintain peace between their peoples and to avoid disruption by endless warfare. He cried out, 'He who reopens this quarrel will cause his people to die and scatter like the hairs of the head of this bull', and then shaved the hairs of its head, scattering them in the wind.

We are here approaching an obviously difficult distinction between the feud and warfare on a wider scale. It seems to me unlikely that the ceremony was often performed in the past, but the details of procedure have been described to me on many occasions. It is not a ceremony normally performed between segments of a tribe, though there was one occasion quoted in Gaswar when Liab Liou, the leader

[1] I have known instances. In each case no compensation was awarded, though the culprit was expected to pay a cow or two as an act of appeasement to his wife's family and as part of the process of ritual expiation. The courts were always reluctant to impose a sentence of imprisonment. The culprit had already 'punished himself'.

[2] The question of the legality of the marriage is relevant here. See under 'Legality of Marriage', Chapter III, p. 124.

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a co-wife of his mother, or sometimes the wife of his *gwan buthel*. At any rate the shaving should be performed by a married woman of the bridegroom's family, and signifies the bride's reception into the status of married woman in that family. She is then taken once more to her own home.

After these ceremonies are over the bride rarely takes up residence in her husband's home, but lives for a period in her own home, where her husband has the right to visit her. Often a special hut is set aside for her there. There is no general rule in this matter, but it is regarded by the Nuer as proper that she should remain in her own home until her first child is born and weaned, for until then, although the marriage has a legal basis, it is not considered to be confirmed. Sometimes, however, the husband has no one to assist him in his home and to cook for him, in which case he may receive permission from his wife's people for her to live with him permanently as soon as the *ewet* has been performed. When the first child is weaned, the wife's mother can claim the *yang dath gata*, the 'cow of bearing a child', a cow which is considered a fee for assisting the girl to give birth to a child. This is usually followed by a formal change of residence. The *yang dath gata* is the last cow which need be paid by the husband, although his wife's family may beg him to give them other cattle when further children are born and weaned; but he is not bound to do so and claims of this sort, if they ever arise, would not nowadays be upheld in a Nuer court.[1]

Conclusion

This concludes a very condensed account of the ritual and social processes of marriage among the Nuer. It is the payment of bride-wealth which legalizes a union, and the fact that some of the ceremonies are sometimes not performed at all is not necessarily evidence in Nuer courts today that a marriage is not a legal union. The payment of cattle, however, usually follows the ceremonies described. As Professor Evans-Pritchard has pointed out, 'payments of cattle and marriage rites therefore tend to alternate, though there is no fixity about the alternation and no marriage is exactly the same as another in this respect'. In fact, it is unlikely that a ceremony would be allowed to take place unless the appropriate stage in the negotiations over cattle had been reached, so that in seeking to determine the legality of a union, a Nuer court will first ask what ceremonies have been performed. The issue in such cases concerns not so much the number of cattle paid or to whom they were paid, but the liabilities and

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[1] It may be noted here that among some Nuer tribes the husband may claim a cow from his wife's family, the *yang jokwi*, 'cow of the spirits'. I do not think this is normally paid unless the first child dies, and it is then given in the form of a dedication to ancestral spirits to ensure that the next child will live.

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rights of the husband in his wife. It would be relevant, for example, if a woman committed a wrong. If she killed someone, the payment of compensation would be a liability on her husband if she was legally his wife, but if there was insufficient legal determination in the union, the responsibility would rest with her own kinsmen. Similarly if a man lies with a woman who is not his wife, he may be charged with adultery (*dhe ciak*) and compensation will be claimed, but he might with justification plead that she is not a married woman in the legal sense, and therefore the act is not adultery. In the event of his proving that the union is not a legal one, he has no liability to the husband, but this will not entirely absolve him from responsibility, for in certain circumstances her kinsmen may claim damages on the grounds of seduction of an unmarried girl. There are, of course, many circumstances which will be considered by the court, circumstances which are discussed later under the heading of wrongs in relation to women. In such cases the legality or otherwise of the marriage is in issue, and it is sometimes difficult to find out what constitutes legality. In most tribes it seems that the ceremony which is considered to legalize the union is the *wut*, but this, as will be seen later, is not a universal law among the Nuer.

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3. THE DISTRIBUTION OF BRIDEWEALTH

When a man wishes to get married his relatives will usually assist him to collect the necessary cattle in addition to those already allotted to him in his father's herd. There are no set rules governing the actual assembly of bridewealth cattle, and in any case the circumstances are too varied to warrant generalization on the subject. Brothers should marry in strict order of age, and the majority of the cattle they use for the purpose will be drawn from their father's herd. The legal father of a family is responsible for the distribution among his sons of those cattle which have come to him as his rights in the bridewealth cattle of his sisters, daughters, and other female relatives. If he is dead, his legal representative will be his brother, usually the senior paternal uncle of his sons, or his eldest son. The assembly of marriage cattle is, however, partly dependent on the rules of distribution applied to previous marriages in the bridegroom's family. In the application of these rules we shall see that there is a tendency to alternate because no family is exactly symmetrical. There is usually more than one claimant to one particular portion and none to another. In the first instance the junior claimant will have to await his turn until the next marriage in the family; in the second, the portion will be inherited by the claimant's heirs. In some cases these will be his own sons, in others, his brother's sons. There are conventions which govern the inheritance of rights in such cattle. The portion allotted to the mother

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581 them to all members of their group. These ceremonies are referred to generally as *muot nyal*, and many Nuer tribes consider that this is the point where legal status is established. In these tribes the first question asked at the opening of a legal case will be *'ee nyal mut?'*, 'has the girl been shaved?', if the legality of the marriage is in doubt. Nuer assume that if the ceremonies have reached this stage, the girl's family have admitted the legality of the union, whether the cattle paid, in comparison with other marriages, are adequate or not.

581 As soon as the legality of the marriage is established, the legal husband or, in the case of 'ghost-marriages', his legal representative, who is the man who has married on his behalf, accepts liabilities in the woman's future behaviour. If she kills someone it will be he and his kinsmen who must pay compensation (*thang*), although her own family will undoubtedly assist them in such circumstances; if she injures someone, and this is naturally more frequent than homicide, it will be her husband who has to pay damages. Equally if she is killed or injured, compensation should be paid to her husband, and it will be his legal right to receive it, even if he is usually willing to hand over some of the cattle to her family. These rights are extended to his kinsmen, since his rights are always limited by the position he holds as a member of a kinship group, and in this strictly legal sense the wife must now be regarded as a member of his lineage rather than her own. Cattle have been paid for her; rights in her life have been transferred to those who paid the cattle. This issue is not often in question in disputes which appear before the courts, but, as already mentioned, it is often raised in disputes over adultery. The defendant will plead that the woman is not legally married (*kare kenen ke ghok*—'she is not married with cattle') and that he is only liable to her family. This is usually to his advantage because her family cannot claim damages for adultery; there can be no adultery if the woman is not legally married. They can claim damages for the seduction of an unmarried girl (*ruok dhu nyal*), but the number of cattle demanded is less than in adultery (*ruok cieh*).

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Recent Legislation at the Nuer Chiefs' Council Meeting of 1945

581 The subject of the legality of marriage was discussed by chiefs from all parts of Nuerland in 1945. Opinion was divided, though it was generally agreed that in the past at any rate all ceremonies up to and including the *muot* should be performed before a man could safely claim all legal rights in his wife. The Eastern Nuer tribes, represented by the Jikany Dhoar, maintained that (i) a man has legal rights in his wife as soon as she comes to live with him and has left home with the permission of her family. Other Nuer tribes argued (ii) that it was the *muot* ceremony alone which was important, and that a